

Assembly Bill No. 2838

CHAPTER 683

An act to amend Section 17464 of the Education Code, and to amend Section 51504 of the Health and Safety Code, relating to real property, and making an appropriation therefor.

[Approved by Governor September 22, 2004. Filed
with Secretary of State September 22, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2838, Salinas. Downpayment assistance: sales of real property.

(1) The existing California Homebuyer's Downpayment Assistance Program administered by the California Housing Finance Agency authorizes funds appropriated for purposes of the program to be used to provide downpayment assistance to first-time low- and moderate-income home buyers that does not exceed 3% of the home sales price. Moneys transferred to the Self-Help Housing Fund by the Housing and Emergency Shelter Trust Fund Act of 2002 are continuously appropriated to the agency for purposes of the program.

This bill would authorize, subject to specified limitations, that downpayment assistance to not exceed 6% of the home sales price if provided to first-time low-income home buyers in specified revitalization areas. By authorizing a new purpose for continuously appropriated funds, the bill would make an appropriation.

(2) The Leroy F. Greene State School Building Lease-Purchase Law of 1976 prescribes priorities and procedures for the sale or lease with an option to purchase real property by a school district. The law requires a school district to offer to sell or lease with an option to purchase the real property in writing to specified state and local public entities and by public notice to other specified public entities and nonprofit organizations.

This bill would require the offer to sell or lease with an option to purchase to be provided in writing to these other public entities or nonprofit organizations only upon the submission of a written request to the school district that the entity or organization be directly notified of the offer. By increasing the duties of local officials, this bill would impose a state-mandated local program.

(3) This bill also would incorporate additional changes in Section 51504 of the Health and Safety Code proposed by AB 672, to be operative if AB 672 and this bill are both enacted and become effective on or before January 1, 2005, and this bill is chaptered last.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 17464 of the Education Code is amended to read:

17464. Except as provided for in Article 2 (commencing with Section 17230) of Chapter 1, the sale or lease with an option to purchase of real property by a school district shall be in accordance with the following priorities and procedures:

(a) First, the property shall be offered for park or recreational purposes pursuant to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, in any instance in which that article is applicable.

(b) Second, the property shall be offered for sale or lease with an option to purchase, at fair market value in each of the following ways:

(1) In writing, to the Director of General Services, the Regents of the University of California, the Trustees of the California State University, the county and city in which the property is situated, to any public housing authority in the county in which the property is situated, and to any entity referenced in paragraph (2) that has submitted a written request to the school district to be directly notified of the offer for sale or lease with an option to purchase the real property by the district.

(2) By public notice to any public district, public authority, public agency, public corporation, or any other political subdivision in this state, to the federal government, and to nonprofit charitable corporations existing on December 31, 1979, and organized pursuant to Part 3 (commencing with Section 10200) of Division 2 of Title 1 of the Corporations Code then in effect or organized on or after January 1, 1980, as a public benefit corporation under Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code. Public notice shall consist of at least publishing its intention to dispose of the real property in a newspaper of general circulation within the district, or



if there is no newspaper of general circulation in the district, then in any newspaper of general circulation that is regularly circulated in the district. The notice shall specify that the property is being made available to all public districts, public authorities, public agencies, and other political subdivisions or public corporations in this state, and to other nonprofit charitable or nonprofit public benefit corporations.

Publication of notice pursuant to this section shall be once each week for three successive weeks. Three publications in a newspaper regularly published once a week or more often, with at least five days intervening between the respective publication dates not counting the publication dates, are sufficient. The written notice required by paragraph (1) shall be mailed no later than the date of the second published notice.

The entity desiring to purchase or lease the property shall, within 60 days after the third publication of notice, notify the school district of its intent to purchase or lease the property. If the entity desiring to purchase or lease the property and the district are unable to arrive at a mutually satisfactory price or lease payment during the 60-day period, the property may be disposed of as otherwise provided in this section. In the event the district receives offers from more than one entity pursuant to this subdivision, the school district governing board may determine which of these offers to accept.

(c) Third, the property may be disposed of in any other manner authorized by law.

This section shall become operative January 1, 1988.

SEC. 2. Section 51504 of the Health and Safety Code is amended to read:

51504. (a) The agency shall administer a downpayment assistance program that includes, but is not limited to, all of the following:

(b) Downpayment assistance shall include, but not be limited to, a deferred-payment, low-interest, junior mortgage loan to reduce the principal and interest payments and make financing affordable to first-time low- and moderate-income home buyers.

(c) (1) The amount of downpayment assistance shall not exceed 3 percent of the home sales price.

(2) Notwithstanding paragraph (1), the agency may, but is not required to, provide downpayment assistance that does not exceed 6 percent of the home sales price to first-time low-income home buyers who, as documented to the agency by a nonprofit organization that is certified and funded to provide home ownership counseling by a federally funded national nonprofit corporation, are purchasing a residence in a community revitalization area targeted by the nonprofit organization as a neighborhood in need of economic stimulation, renovation, and rehabilitation through efforts that include increased



home ownership opportunities for low-income families. The agency shall not use more than six million dollars (\$6,000,000) in funds made available pursuant to Section 53533 for the purposes of this paragraph.

(d) The amount of downpayment assistance shall be secured by a deed of trust in a junior position to the primary financing provided. The term of the loan for the downpayment assistance shall not exceed the term of the primary loan.

(e) The amount of the downpayment assistance shall be due and payable at the end of the term or upon sale of or refinancing of the home. The borrower may refinance the mortgages on the home provided the principal and accrued interest on the junior mortgage loan securing the downpayment assistance are repaid in full. All repayments shall be made to the agency to be reallocated for the purposes of this chapter.

(f) The agency may use up to 5 percent of the funds appropriated by the Legislature for purposes of this chapter to administer this program.

SEC. 3. Section 51504 of the Health and Safety Code is amended to read:

51504. The agency shall administer a downpayment assistance program that includes, but is not limited to, all of the following:

(a) Downpayment assistance shall include, but not be limited to, a deferred-payment, low-interest, junior mortgage loan to reduce the principal and interest payments and make financing affordable to first-time low- and moderate-income home buyers.

(b) (1) Except as provided in paragraph (2) or (3), the amount of downpayment assistance shall not exceed 3 percent of the home sales price.

(2) The amount of downpayment assistance for a new home within an infill opportunity zone, as defined in Section 65088.1 of the Government Code, a transit village development district, as defined in Section 65460.4 of the Government Code, or a transit-oriented development specific plan area shall not exceed 5 percent of the purchase price or the appraised value, whichever amount is less, of the new home. The borrower of the downpayment assistance shall provide the lender originating the loan with a certification from the local government agency administering the infill opportunity zone, the transit village development district, or the transit-oriented development specific plan area that states that the property involved in the loan transaction is within the boundaries of either the infill opportunity zone, the transit village development district, or the transit-oriented development specific plan area.

(3) Notwithstanding paragraph (1), the agency may, but is not required to, provide downpayment assistance that does not exceed 6 percent of the home sales price to first-time low-income home buyers



who, as documented to the agency by a nonprofit organization that is certified and funded to provide home ownership counseling by a federally funded national nonprofit corporation, are purchasing a residence in a community revitalization area targeted by the nonprofit organization as a neighborhood in need of economic stimulation, renovation, and rehabilitation through efforts that include increased home ownership opportunities for low-income families. The agency shall not use more than six million dollars (\$6,000,000) in funds made available pursuant to Section 53533 for the purposes of this paragraph.

(c) The amount of the downpayment assistance shall be secured by a deed of trust in a junior position to the primary financing provided. The term of the loan for the downpayment assistance shall not exceed the term of the primary loan.

(d) The amount of the downpayment assistance shall be due and payable at the end of the term or upon sale of or refinancing of the home. The borrower may refinance the mortgages on the home provided that the principal and accrued interest on the junior mortgage loan securing the downpayment assistance are repaid in full. All repayments shall be made to the agency to be reallocated for the purposes of this chapter.

(e) The agency may use up to 5 percent of the funds appropriated by the Legislature for purposes of this chapter to administer this program.

(f) For the purposes of this section, “transit-oriented development specific plan area” means a specific plan that meets the criteria set forth in Section 65451 of the Government Code, is centered around a rail or light-rail station, ferry terminal, bus hub, or bus transfer station, and is intended to achieve a higher-density use of land that facilitates use of the transit station.

SEC. 4. Section 3 of this bill incorporates amendments to Section 51504 of the Health and Safety Code proposed by both this bill and Assembly Bill 672. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill amends Section 51504 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 672 in which case Section 2 of this bill shall not become operative.

SEC. 5. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one



million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

O

